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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,942	02/04/2004	Dilton A. Lightbourne	206,195	6063

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EXAMINER

GRAVINI, STEPHEN MICHAEL

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/772,942

Applicant(s)

LIGHTBOURNE, DILTON A.

Examiner

Stephen Gravini

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20040819.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Regarding claims 1, 10, and 13, the phrase "or the like" renders the claim(s) indefinite because the claims include elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claims unascertainable. See MPEP § 2173.05(d).

Claims 1, 10, and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention because both contain the recitation "or the like."

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnstone (US 4,143,902). Johnstone is considered to disclose the invention comprising:

a case **50** having at least one cover movable between closed and open positions, the closed position being for compact containment of contents therein, and the open position exposing the contents for use;

a plurality of functional food preparation and storage devices supported within said case, including:

a refrigerator **73** unit capable of containing and storing foods at conventional refrigerator storage temperatures;

a microwave power unit for microwave heating of foods (please see column 3 lines 29-30); and

a cooking unit **71** having cooking burners for heating cookware or the like for preparing heated foods (wherein the disclosed stove is considered to implicitly anticipated the claimed cooking burners because it is considered that all stoves have cooking burners, based on the specification discussion of cooking burners and reasonable claim construction); and

a power connecting device **69** for connecting an outside source of power to said food preparation and storage devices to provide functioning power to said devices. Johnstone is also considered to disclose the feature wherein said power connecting device is at least one of a direct current (i.e. , D.C.) connecting device and an alternating current (i.e. , A.C.) connecting device **69**.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnstone. Johnstone is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed refrigerator temperature range. Official notice is taken for the claimed temperature range because it would have been obvious to choose a temperature range that has been designated to keep perishable foods fresh as seen in supermarkets, homes, and other areas where perishable food is refrigerated.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnstone in view of Lieb (US 5,589,958). Johnstone is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed microwave viewing glass door. Lieb, another microwave food heating unit, is considered to disclose a microwave viewing glass door at column 3 lines 26-37. It would have been obvious to one skilled in the art to combine the teachings of Johnstone with the microwave viewing glass door, considered to be disclosed by Lieb, for the

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purpose of viewing microwave heating of foods. Furthermore, Johnstone in view of Lieb is considered to disclose the claimed invention, as discussed, except for the claimed dual pivotable access doors. It would have been an obvious matter of design choice to provide the teachings of Johnstone in view of Lieb with dual pivotable access doors since the prior art teachings show that the claimed feature can be performed by any number of access doors.

Claims 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnstone in view of Lieb in further view of Markus et al. (US 3,692,975). Johnstone in view of Lieb is considered to disclose the claimed invention, as discussed above under the obviousness rejection, except for the claimed toaster device. Markus, another food heating unit, is considered to disclose a toaster device at column 4 lines 7-10. It would have been obvious to one skilled in the art to combine the teachings of Johnstone in view of Lieb with the toaster device, considered to be disclosed by Markus, for the purpose of heating of foods. Furthermore, Johnstone in view of Lieb in further view of Markus is considered to disclose the claimed invention, as discussed, except for the claimed microwave cooking unit and refrigerator insulating wall. Official notice is taken for the claimed microwave cooking unit and refrigerator insulating wall because it would have been obvious to provide a microwave cooking unit and refrigerator insulating wall that prevent microwave cooking heat to be exchanged with refrigerator cooling and vice versa.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnstone in view of Lieb in further view of Markus in further view of Reed et al. (US

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2004/0026946). Johnstone in view of Lieb in further view of Markus is considered to disclose the claimed invention, as discussed above under the obviousness rejection, except for the claimed direct current source. Reed, another portable kitchen, is considered to disclose a direct current source at paragraph 18. It would have been obvious to one skilled in the art to combine the teachings of Johnstone in view of Lieb in further view of Markus with the direct current source, considered to be disclosed by Reed, for the purpose of providing alternative power sources for portable kitchens, especially those associated with mobile units in automotive vehicles.

Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnstone in view of Lieb in further view of Markus in further view of Reed in further view of Markus. Johnstone in view of Lieb in further view of Markus in further view of Reed is considered to disclose the claimed invention, as discussed above under the obviousness rejection, except for the claimed cigarette lighter. Markus, another food heating device, is considered to disclose a cigarette lighter at column 2 lines 6-13. It would have been obvious to one skilled in the art to combine the teachings of Johnstone in view of Lieb in further view of Markus in further view of Reed with the cigarette lighter, considered to be disclosed by Markus, for the purpose of providing alternative power sources for portable kitchens, especially those associated with mobile units in automotive vehicles.

Claim 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnstone in view of Lieb in further view of Markus in further view of Reed in further view of Markus in further view of Reed. Johnstone in view of Lieb in further view of

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Markus in further view of Reed in further view of Markus is considered to disclose the claimed invention, as discussed above under the obviousness rejection, except for the claimed alternating current power source. Reed, another portable kitchen, is considered to disclose an alternating current power source at paragraph 18. It would have been obvious to one skilled in the art to combine the teachings of Johnstone in view of Lieb in further view of Markus in further view of Reed in further view of Markus with the alternating current power source, considered to be disclosed by Reed, for the purpose of providing alternative power sources for portable kitchens, especially those associated with mobile units in automotive vehicles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 703 308 7570. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira S. Lazarus can be reached on 703 308 1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Smg October 19, 2004

*Stephen M. Levine*